

REMARKS

Claims 5 and 6 are cancelled , claims 1-4 and 7 are amended, and claims 8-12 are newly added. Support for the newly added claims 8-12 is found throughout the specification and drawings as filed. A wireless communications system is shown in Fig. 2, and is described in the corresponding portions of the specification. The amendment to claims 1-4 and 7 includes the amendment made in the parent application in response to the first and second office action, and thus also includes the subject matter that the Examiner deemed to raise a new issue requiring further search.

Claims 1, 2 and 4 were previously rejected under 35 USC 103(a) as being unpatentable over U.S. 6,301,265 (Kleider et al.) in view of U.S. 4,490,817 (Turner). This rejection is respectfully disagreed with, and is traversed below.

As was previously argued, the Examiner appears to be of the position that the comparison made in step 414 of Kleider et al. is the same as the statistical testing of claim 1, and thus considers the packet error rate (PER) of Kleider et al. as the confidence measure of the reliability of a measured PER of the claimed invention. Applicant respectfully asserts that this is not the case. In Kleider et al., the measured PER that is compared to some predetermined value is merely a parameter for indicating the ratio of erroneously received and received packets. It does not inform about the reliability of it.

In contrast, Applicant derives a reliability value for the PER in order to determine if the PER value is reliable enough to be used to control the channel coder. Statistical testing is used to derive this reliability value. Accordingly, the channel coding may be controlled based on measured PER wherein the reliability of the measured PER is also taken into account.

Independent claim 1, from which claims 2 and 4 depend, particularly recites the step of periodically performing a plurality of statistical tests using current values of the first and second counts to derive a confidence measure of the reliability of a measured packet error rate. This claim has been further clarified to then recite that “based on said confidence measure, controlling said channel coder to either maintain a current channel coding technique or to switch to another

channel coding technique." Support for this amendment can be found at least at page 6, lines 15-22, and at page 7, line 17, to page 10, line 19. No new matter is introduced by this amendment.

The above clarification made to claim 1 should also place claims 1-4 in condition for allowance, as the Examiner's proposed combination of Kleider et al. in view of Turner does not disclose or suggest this subject matter. In particular, the Kleider et al. reference has been described above, and Turner in Fig. 2A merely counts erroneously received packets. Accordingly, Applicant respectfully asserts that there is no teaching, suggestion or motivation that would lead one of ordinary skill in the art to combine and then modify the teachings of these references in an attempt to arrive at the present claims.

The foregoing amendment should also overcome the rejection of claim 7 under 35 U.S.C. 112, second paragraph, thereby placing claim 7 in condition for allowance. Note that claim 7 has also been amended so as to be drawn to a method "to operate a wireless packet data system".

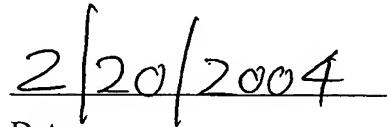
In view of the above remarks and the clarifying amendments to the claims, claims 1-4 and 7 are believed to be in condition for immediate allowance. Accordingly, the Examiner is respectfully requested to reconsider and remove the rejection of claims 1-4 and 7, and to allow all of the pending claims, including newly added claims 8-12, as currently presented for examination.

Respectfully submitted:



Harry F. Smith

Reg. No.: 32,493



Date

Customer No.: 29683

HARRINGTON & SMITH, LLP

4 Research Drive

Shelton, CT 06484-6212

Telephone: (203)925-9400

Facsimile: (203)944-0245

email: hsmith@hspatent.com